

CERCLA Consent Decree for Tongass National Forest Sites

Appendix F - Naukati Generator Cleanup Work Requirements

In May and June 2001, KPC performed a response action at the Naukati Generator area of the Naukati Site, which included the removal of approximately 384 cubic yards of material. Two confirmation samples demonstrated that Diesel Range Organic (DRO) concentrations in excess of ADEC Method 3 cleanup levels (17,400 mg/kg and 10,200 mg/kg) remained on-Site. Cleanup of the remaining DRO contamination was deferred, in part due to concerns that further excavation might undermine the foundations of a telephone switch building utilized by Alaska Power and Telephone ("AP&T"). The work to address that remaining contamination is subject to the following requirements.

1. Work Plan and Implementation: Within 60 days after the Effective Date of this Consent Decree, KPC shall submit to ADEC and the Forest Service for approval, a draft plan (the "Work Plan") for the Work at the Naukati Generator area of the Naukati Site. The draft Work Plan shall provide a description of, and a schedule for the Work. KPC shall implement the Work Plan as finally approved by ADEC and the Forest Service. Once approved, or approved with modifications, the Work Plan, the schedule, and any subsequent modifications shall be fully enforceable under this Consent Decree. KPC shall notify the Forest Service prior to performing any activity pursuant to the approved Work Plan. KPC shall not undertake any work at the Naukati Site pursuant to the Work Plan without prior Forest Service approval.
2. Health and Safety Plan: Within 20 days after approval of the Work Plan, KPC shall submit to ADEC and the Forest Service for review and comment a plan that ensures the protection of the public health and safety during performance of the Work at the Naukati Site required pursuant to this Consent Decree. This plan shall be prepared in accordance with current EPA guidelines and shall comply with all current applicable Occupational Safety and Health Administration regulations. KPC shall incorporate all changes to the plan recommended by ADEC and the Forest Service, and it shall implement the plan during the performance of the activities at the Naukati Site.
3. Quality Assurance Plan: All sampling and analysis performed pursuant to this Consent Decree shall conform to EPA guidance regarding sampling, quality assurance/quality control (QA/QC), data validation, and chain of custody procedures. KPC shall ensure that any laboratory used to perform analysis complies with EPA's Contract Laboratory Program (CLP). KPC shall submit to the Forest Service and, if requested, ADEC, the results of all sampling or tests and all other data collected or generated by or on behalf of KPC in connection with the Work within twenty (20) days of receipt by KPC.

4. Upon request by the Forest Service, KPC shall have a CLP-compliant laboratory analyze samples submitted by the Forest Service or ADEC for quality assurance monitoring. Upon request by Forest Service, KPC shall provide to the Forest Service or ADEC the QA/QC procedures followed by all sampling teams and laboratories performing data collection and/or analysis.
5. Upon request by the Forest Service, KPC shall provide to ADEC or the Forest Service or its authorized representative split or duplicate samples of any samples collected by KPC while performing activities at the Naukati Site. KPC shall notify the Forest Service and ADEC not less than 5 days in advance of any sample collection activity. The Forest Service and ADEC shall have the right to take any additional samples that each deems necessary.
6. KPC shall, prior to any off-Site shipment of Waste Material from the Naukati Site to an out-of-state waste management facility, provide written notification of such shipment of Waste Material to the appropriate state environmental official in the receiving facility's state and to the Forest Service. However, this notification requirement shall not apply to any off-Site shipments when the total volume of all such shipments will not exceed ten (10) cubic yards, unless such notice is otherwise required under applicable State law. KPC shall include in the written notification the following information, where available: (1) the name and location of the facility to which the Waste Material is to be shipped; (2) the type and quantity of the Waste Material to be shipped; (3) the expected schedule for the shipment of the Waste Material; and (4) the method of transportation. KPC shall notify the state in which the planned receiving facility is located of major changes in the shipment plan, such as a decision to ship the Waste Material to another facility within the same state or to a facility in another state.
7. Progress Reports: Beginning 30 days after commencement of on-Site work at the Naukati Generator area, KPC shall submit written progress reports to the Forest Service and ADEC concerning cleanup activities undertaken pursuant to this Consent Decree at the Naukati Generator area of the Naukati Site until such activities are fully completed. These progress reports shall be submitted every 30 days during the cleanup activities at the Naukati Site, except that, upon written request by KPC, the Forest Service may suspend KPC's obligation to submit progress reports during periods when no on-Site work is underway. These progress reports shall describe all significant developments during the preceding period; the actual work completed and any problems encountered in completing the work; the developments anticipated and the work scheduled during the next reporting period; and a schedule of completion for the unfinished work from the preceding periods, and work to be performed, anticipated problems, and planned resolutions of past and anticipated problems. Each of these reports shall be

submitted within 5 days of the end of each corresponding reporting period. Progress reports may be transmitted by fax.

8. Work Takeover. In the event the Forest Service determines that KPC has, without good cause, ceased implementation of any portion of the Naukati Generator Cleanup Work, is seriously or repeatedly deficient or late in its performance of the Work, or is implementing the Work in a manner which may cause an endangerment to human health or the environment, the Forest Service may assume the performance of all or any portions of the Naukati Generator Work as the Forest Service determines necessary. KPC may invoke the procedures set forth in Section VII (Dispute Resolution) to dispute the Forest Service's determination that takeover of the Work is warranted under this Paragraph. Unless KPC prevails in the dispute resolution process, KPC shall reimburse the Forest Service for all costs incurred by the Forest Service in performing the Work pursuant to this Paragraph within 30 days after receiving a demand for such payment and a summary of such costs.
9. Final Report and Certification. Within 60 days after completion of the Work at the Naukati Generator area of the Naukati Site required pursuant to this Consent Decree, KPC shall submit for Forest Service and ADEC review and approval a final report summarizing the required Work. The final report shall include a good faith estimate of total costs or a statement of actual costs incurred in performing the required Work, a detailed description of all work performed, a presentation of analytical results of all sampling and analysis performed, and accompanying appendices containing all relevant documentation generated during performance of the required Work (e.g., manifests, invoices, bills, contracts, and permits). The final report shall also include the following certification signed by a person who supervised or directed the preparation of that report:

“Under penalty of law, I certify that to the best of my knowledge, after appropriate inquiries of all relevant persons involved in the preparation of the report, the information submitted is true, accurate, and complete in all material respects. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”
10. If, after reviewing the final report submitted pursuant to the preceding Subparagraph, the Forest Service determines that the required Work or any portion thereof has not been completed in accordance with this Consent Decree, including the Work Plan approved hereunder, the Forest Service will notify KPC in writing of the activities that must be undertaken by KPC pursuant to this Consent Decree to complete the required Work, consistent with the approved

Work Plan. KPC shall perform all activities described in the notice in accordance with the approved Work Plan, subject to its right to invoke the dispute resolution procedures set forth in Section VIII (Dispute Resolution).

11. Notice of Completion: If KPC obtains a “no further action” or “no further remedial action planned” determination from ADEC and the Forest Service concludes, based on review of the final report, that the required Work has been performed in accordance with this Consent Decree, the Forest Service will promptly notify KPC in writing. The Forest Service shall not unreasonably withhold this notification. This notification shall constitute the Notice of Completion for the Naukati Site for purposes of Section X (Covenants Not to Sue by United States).
12. Emergency Response and Notification of Releases: If any incident, or change in conditions, during activities conducted at the Naukati Site pursuant to this Consent Decree causes or threatens to cause an additional release of petroleum or hazardous substances from the Naukati Site or an endangerment to the public health, welfare, or the environment, KPC shall immediately take all appropriate action in order to abate or minimize such release or endangerment caused or threatened by the release. KPC shall also immediately notify the Forest Service of the incident or change in conditions. KPC shall submit a written report to the Forest Service within 7 days after each release, setting forth the events that occurred and the measures taken or to be taken to mitigate any release or endangerment caused or threatened by the release and the measures to prevent the reoccurrence of such a release. These reporting requirements are in addition to any reporting required by CERCLA Section 103, 42 U.S.C. § 9603, and EPCRA Section 304, 42 U.S.C. § 11004.